

Court of Appeals, State of Michigan

ORDER

Bill Schuette
Presiding Judge

William C. Whitbeck, CJ

Stephen L. Borrello
Judges

Wells Fargo Bank Minnesota NA v Leisure Village Assoc

Docket No. 268660

LC No. 00-031860-CZ

The Court orders that the motion to dismiss pursuant to MCR 7.211(C)(2) is DENIED in the ground presented. The claim of appeal is, nevertheless, DISMISSED for lack of jurisdiction as the April 24, 2004 order is a postjudgment order that is not appealable as a matter of right in view of the fact that the final order for the case is the January 24, 2002 order of dismissal. MCR 7.202(6)(a)(i) and 7.203(A)(1). See also *Konal v Forlini*, 235 Mich App 69, 76; 596 NW2d 630 (1999). Appellees argument would have been correct if the April 24, 2004 order could somehow be deemed the final order for the case since appellant failed to file its claim in accordance with the mandates of MCR 7.204(A)(3). Unfortunately, appellant cannot file a delayed application for leave to appeal from the April 2004 order as more than 12 months have elapsed since its entry and neither exception found at MCR 7.205(F)(3) apply.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAY - 4 2006

Date

Sandra Schultz Mengel
Chief Clerk